

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ABBY B. CONLEY,

**JURY TRIAL DEMANDED**

Plaintiff

v.

Civil Action No.: 05-76E

COUNTY OF ERIE, ERIE COUNTY OFFICE  
OF CHILDREN AND YOUTH, a/k/a ERIE  
COUNTY CHILD WELFARE SERVICE,  
RICHARD SCHENKER, individually and in  
his capacity as County Executive of Erie  
County, Pennsylvania, PETER CALLAN,  
individually and in his capacity as Erie County  
Director of Personnel, DEBRA LIEBEL,  
individually and in her capacity as Executive  
Director, Erie County Office of Children and  
Youth, a/k/a Erie Child Welfare Service and  
JOHN A. ONORATO, ESQUIRE, individually  
and in his capacity as Erie County Solicitor,

The Honorable Sean J. McLaughlin

Defendants

**CONCISE STATEMENT OF  
MATERIAL FACTS IN SUPPORT OF SUMMARY JUDGMENT SUBMITTED BY  
RICHARD SCHENKER, PETER CALLAN, AND DEBRA LIEBEL**

AND NOW comes the Defendants, Richard Schenker, Peter Callan and Debra Liebel, Individually, by and through their attorneys, Law Office of Joseph Weimer, and Edmond R. Joyal, Jr., Esquire, and files the within Concise Statement of Material Facts in Support of Summary Judgment:

1. This action was filed on behalf of Abby Conley against Erie County, Erie County Office of Children and Youth, Richard Schenker, County Executive of Erie County, Peter Callan, Erie County Director of Personnel, Debra Liebel, Executive Director of the Erie County Office of Children and Youth, and John Onorato, Erie County Solicitor.

2. Plaintiff alleges that her resignation was coerced in retaliation for the exercise of her rights secured by the First and Fourteenth Amendments to the Constitution of the United States for giving truthful testimony under oath in a court proceeding and for making a good faith report of violations of Agency policy and the criminal laws of the Commonwealth of Pennsylvania.

3. Further, Plaintiff alleges that she was subjected to defamatory statements, to the detriment of her good reputation, for reasons of personal animus. *Complaint*, ¶1.

4. The Complaint identifies violations of 42 U.S.C. §1983, conspiracy to violate 42 U.S.C. §1983, violation of the Whistleblower Law at 43 Pa. C.S. §1421 et. seq., and wrongful discharge.

5. The Complaint further alleges claims against Mr. Onorato, in his individual capacity, for defamation and violation of 42. U.S.C. §1983.

6. Plaintiff contends that she was constructively discharged from employment and that the Defendants were motivated in discharging her by two events.

7. First, Plaintiff contends that she reported a co-worker, PW, for grabbing a child by the face with her hand, shaking the child's face and yelling "no, no, no." *Complaint* at ¶15-19.

8. Plaintiff further alleges that the County constructively discharged her in retaliation for her testimony on July 28, 2004 before the Honorable Elizabeth Kelly in the Court of Common Pleas of Erie County, wherein she testified that a Court Summary which she had prepared in relation to a court case had been altered by her supervisor, Sue Deveney. *Complaint* at ¶21-24.

9. On Friday, September 10, 2004, the County requested Plaintiff's resignation, and Plaintiff resigned from employment with the County on that date. *See, Plaintiff's resignation letter dated September 10, 2004, Appendix Exhibit 1.*

10. Defendant Schenker incorporates by reference the Concise Statement of Material Facts submitted by Defendants Onorato, County of Erie and Erie County Office of Children and Youth.

11. In addition to the facts submitted by the other Defendants, this Defendants submits additional facts as they relate to the allegations against him as an individual.

12. At all times pertinent to this complaint, Richard Schenker was the elected County Executive of Erie County.

13. The position of County Executive is the highest elected office in county government and acts as County administrator.

14. On September 12, 2004, the *Erie Times News* published an article with a headline "Whistleblower Ousted".

15. The article stated, "...Schenker and Onorato, however, did tell the *Erie Times News* the Schenker was not letting Conley go because she was a "whistleblower" or because she testified against OCY.

16. To the extent that the published statements quoted above, although not attributed to one or the other of the persons named, were made by either person they were true.

17. At all times pertinent to this matter Peter Callan was the Director of Personnel for the County of Erie.

18. At all times pertinent to this matter Debra Liebel was the Director of the Office of Children and Youth.

Respectfully submitted,

**LAW OFFICE OF JOSEPH S. WEIMER**

BY:/s/ Edmond R. Joyal, Jr.

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Edmond R. Joyal, Jr., Esquire  
Pa. I.D. #65907  
Attorney for Defendants, Richard Schenker  
Peter Callan and Debra Liebel, Individually  
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**CERTIFICATE OF SERVICE**

I, Edmond R. Joyal, Jr., Esquire, hereby certify that a true and correct copy of the foregoing **Concise Statement of Material Facts in Support of Summary Judgment Submitted by Richard Schenker, Peter Callan, and Debra Liebel** has been served by First Class Mail, postage pre-paid, upon the following parties on this 10<sup>th</sup> day of April, 2006:

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*(Attorney for County of Erie, Erie County Office of Children & Youth, a/k/a Erie County Child Welfare Service, and Richard Schenker, Peter Callan and Debra Liebel, in the official capacities)*

**LAW OFFICE OF JOSEPH S. WEIMER**

BY: /s/ Edmond R. Joyal, Jr.  
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